

AMENDED IN ASSEMBLY MAY 7, 2007  
AMENDED IN ASSEMBLY APRIL 30, 2007  
AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 605**

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**Introduced by Assembly Member Walters**

February 21, 2007

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An act to ~~add Section 22659.6 to~~ *repeal and add Section 23109.2 of* the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 605, as amended, Walters. Speed contest: forfeiture procedure.

*Existing law allows a peace officer to arrest and take into custody a person that a peace officer determines was engaged in a motor vehicle speed contest and permits the peace officer to cause the removal and seizure of the motor vehicle used in the contest, subject to certain conditions. A vehicle impounded under these provisions is required to be impounded for not more than 30 days, with specified exceptions. Existing law permits the release of the motor vehicle prior to the end of the impoundment period in specified circumstances. The registered owner or his or her agent is responsible for, among other things, all towing and storage charges related to the impoundment and all authorized administrative charges, except under specified circumstances.*

*This bill would extend those provisions to persons engaged in reckless driving on a highway, reckless driving in an offstreet parking facility, or an exhibition of speed on a highway. It would require the impounding agency to release the vehicle to the registered owner prior to the conclusion of the impoundment period if the registered owner was*

*neither the driver nor a passenger in the vehicle at the time of the alleged violation, or was unaware that the vehicle was being used to engage in the prohibited activities.*

~~Existing law makes it a misdemeanor or a felony, depending upon the number of prior convictions and whether serious bodily injury occurs, for a person to engage in a motor vehicle contest on a highway. A peace officer may cause the removal and seizure of a motor vehicle that is used in the unlawful contest.~~

~~This bill would authorize a city or county to adopt an ordinance establishing a forfeiture program that implements a due process procedure for declaring a motor vehicle a public nuisance when that motor vehicle is used in the commission of an unlawful motor vehicle contest on a highway.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. The Legislature finds and declares all of the*  
2     *following:*

3     *(a) Public safety professionals have confirmed that illegal speed*  
4     *contests and exhibitions of speed pose a real and serious threat*  
5     *to the health and safety of the public, interfere with pedestrian and*  
6     *vehicular traffic, create a public nuisance, and interfere with the*  
7     *right of individuals and businesses to enjoy the use of their*  
8     *properties.*

9     *(b) Public health and safety are enhanced when illegal speed*  
10    *contests and exhibitions of speed are discouraged and prevented*  
11    *by the enactment of local ordinances that seek to impose forfeiture*  
12    *of vehicles used in these events as a penalty for illegal motor*  
13    *vehicle speed contests and exhibitions of speed.*

14    *(c) California state law does not expressly authorize cities or*  
15    *counties to enact local ordinances that impose vehicle forfeiture*  
16    *as a penalty for illegal motor vehicle speed contests and exhibitions*  
17    *of speed.*

18    *(d) By providing cities and counties with the flexibility in state*  
19    *law to impose the penalty of motor vehicle forfeiture for illegal*  
20    *motor vehicle speed contests and exhibitions of speed, this act will*  
21    *enhance public safety and facilitate local control of local speed*  
22    *contest-related problems.*

1     *SEC. 2. Section 23109.2 of the Vehicle Code is repealed.*

2     ~~23109.2. (a) Whenever a peace officer determines that a person~~  
3 ~~was engaged in a motor vehicle speed contest, as described in~~  
4 ~~subdivision (a) of Section 23109, the peace officer may~~  
5 ~~immediately arrest and take into custody that person and may cause~~  
6 ~~the removal and seizure of the motor vehicle used in that contest~~  
7 ~~in accordance with Chapter 10 (commencing with Section 22650).~~  
8 ~~A motor vehicle so seized may be impounded for not more than~~  
9 ~~30 days.~~

10     ~~(b) The registered and legal owner of a vehicle that is removed~~  
11 ~~and seized under subdivision (a) or their agents shall be provided~~  
12 ~~the opportunity for a storage hearing to determine the validity of~~  
13 ~~the storage in accordance with Section 22852.~~

14     ~~(c) (1) Notwithstanding Chapter 10 (commencing with Section~~  
15 ~~22650) or any other provision of law, an impounding agency shall~~  
16 ~~release a motor vehicle to the registered owner or his or her agent~~  
17 ~~prior to the conclusion of the impoundment period described in~~  
18 ~~subdivision (a) under any of the following circumstances:~~

19     ~~(A) If the vehicle is a stolen vehicle.~~

20     ~~(B) If the person alleged to have been engaged in the motor~~  
21 ~~vehicle speed contest, as described in subdivision (a), was not~~  
22 ~~authorized by the registered owner of the motor vehicle to operate~~  
23 ~~the motor vehicle at the time of the commission of the offense.~~

24     ~~(C) If the legal owner or registered owner of the vehicle is a~~  
25 ~~rental car agency.~~

26     ~~(D) If, prior to the conclusion of the impoundment period, a~~  
27 ~~citation or notice is dismissed under Section 40500, criminal~~  
28 ~~charges are not filed by the district attorney because of a lack of~~  
29 ~~evidence, or the charges are otherwise dismissed by the court.~~

30     ~~(2) A vehicle shall be released pursuant to this subdivision only~~  
31 ~~if the registered owner or his or her agent presents a currently valid~~  
32 ~~driver's license to operate the vehicle and proof of current vehicle~~  
33 ~~registration, or if ordered by a court.~~

34     ~~(3) If, pursuant to subparagraph (D) of paragraph (1) a motor~~  
35 ~~vehicle is released prior to the conclusion of the impoundment~~  
36 ~~period, neither the person charged with a violation of subdivision~~  
37 ~~(a) of Section 23109 nor the registered owner of the motor vehicle~~  
38 ~~is responsible for towing and storage charges nor shall the motor~~  
39 ~~vehicle be sold to satisfy those charges.~~

1     ~~(d) A vehicle seized and removed under subdivision (a) shall~~  
2     ~~be released to the legal owner of the vehicle, or the legal owner's~~  
3     ~~agent, on or before the 30th day of impoundment if all of the~~  
4     ~~following conditions are met:~~

5     ~~(1) The legal owner is a motor vehicle dealer, bank, credit union,~~  
6     ~~acceptance corporation, or other licensed financial institution~~  
7     ~~legally operating in this state, or is another person, not the~~  
8     ~~registered owner, holding a security interest in the vehicle.~~

9     ~~(2) The legal owner or the legal owner's agent pays all towing~~  
10    ~~and storage fees related to the impoundment of the vehicle. No~~  
11    ~~lien sale processing fees shall be charged to a legal owner who~~  
12    ~~redeems the vehicle on or before the 15th day of impoundment.~~

13    ~~(3) The legal owner or the legal owner's agent presents~~  
14    ~~foreclosure documents or an affidavit of repossession for the~~  
15    ~~vehicle.~~

16    ~~(e) (1) The registered owner or his or her agent is responsible~~  
17    ~~for all towing and storage charges related to the impoundment,~~  
18    ~~and any administrative charges authorized under Section 22850.5.~~

19    ~~(2) Notwithstanding paragraph (1), if the person convicted of~~  
20    ~~engaging in a motor vehicle speed contest was not authorized by~~  
21    ~~the registered owner of the motor vehicle to operate the motor~~  
22    ~~vehicle at the time of the commission of the offense, the court shall~~  
23    ~~order the convicted person to reimburse the registered owner for~~  
24    ~~any towing and storage charges related to the impoundment, and~~  
25    ~~any administrative charges authorized under Section 22850.5~~  
26    ~~incurred by the registered owner to obtain possession of the vehicle,~~  
27    ~~unless the court finds that the person convicted does not have the~~  
28    ~~ability to pay all or part of those charges.~~

29    ~~(3) If the vehicle is a rental vehicle, the rental car agency may~~  
30    ~~require the person to whom the vehicle was rented to pay all towing~~  
31    ~~and storage charges related to the impoundment and any~~  
32    ~~administrative charges authorized under Section 22850.5 that were~~  
33    ~~incurred by the rental car agency in connection with obtaining~~  
34    ~~possession of the vehicle.~~

35    ~~(4) The owner shall not be liable for any towing and storage~~  
36    ~~charges related to the impoundment if acquittal or dismissal occurs.~~

37    ~~(5) The vehicle shall not be sold prior to the defendant's~~  
38    ~~conviction.~~

39    ~~(6) The impounding agency is responsible for the actual costs~~  
40    ~~incurred by the towing agency as a result of the impoundment~~

1 ~~should the registered owner be absolved of liability for those~~  
2 ~~charges pursuant to paragraph (3) of subdivision (e) of Section~~  
3 ~~23109.2. Notwithstanding this provision, nothing shall prohibit~~  
4 ~~impounding agencies from making prior payment arrangements~~  
5 ~~to satisfy this requirement.~~

6 ~~(f) Any period in which a vehicle is subjected to storage under~~  
7 ~~this section shall be included as part of the period of impoundment~~  
8 ~~ordered by the court under subdivision (h) of Section 23109.~~

9 ~~(g) This section shall become operative on January 1, 2007.~~

10 *SEC. 3. Section 23109.2 is added to the Vehicle Code, to read:*

11 *23109.2. (a) (1) Whenever a peace officer determines that a*  
12 *person was engaged in an activity set forth in paragraph (2), the*  
13 *peace officer may immediately arrest and take into custody that*  
14 *person and may cause the removal and seizure of the motor vehicle*  
15 *used in that offense in accordance with Chapter 10 (commencing*  
16 *with Section 22650). A motor vehicle so seized may be impounded*  
17 *for not more than 30 days.*

18 *(2) (A) A motor vehicle speed contest, as described in*  
19 *subdivision (a) of Section 23109.*

20 *(B) Reckless driving on a highway, as described in subdivision*  
21 *(a) of Section 23103.*

22 *(C) Reckless driving in an offstreet parking facility, as described*  
23 *in subdivision (b) of Section 23103.*

24 *(D) Exhibition of speed on a highway, as described in*  
25 *subdivision (c) of Section 23109.*

26 *(b) The registered and legal owner of a vehicle that is removed*  
27 *and seized under subdivision (a) or their agents shall be provided*  
28 *the opportunity for a storage hearing to determine the validity of*  
29 *the storage in accordance with Section 22852.*

30 *(c) (1) Notwithstanding Chapter 10 (commencing with Section*  
31 *22650) or any other provision of law, an impounding agency shall*  
32 *release a motor vehicle to the registered owner or his or her agent*  
33 *prior to the conclusion of the impoundment period described in*  
34 *subdivision (a) under any of the following circumstances:*

35 *(A) If the vehicle is a stolen vehicle.*

36 *(B) If the person alleged to have been engaged in the motor*  
37 *vehicle speed contest, as described in subdivision (a), was not*  
38 *authorized by the registered owner of the motor vehicle to operate*  
39 *the motor vehicle at the time of the commission of the offense.*

1 (C) If the registered owner of the vehicle was neither the driver  
2 nor a passenger of the vehicle at the time of the alleged violation  
3 pursuant to subdivision (a), or was unaware that the driver was  
4 using the vehicle to engage in any of the activities described in  
5 subdivision (a).

6 (D) If the legal owner or registered owner of the vehicle is a  
7 rental car agency.

8 (E) If, prior to the conclusion of the impoundment period, a  
9 citation or notice is dismissed under Section 40500, criminal  
10 charges are not filed by the district attorney because of a lack of  
11 evidence, or the charges are otherwise dismissed by the court.

12 (2) A vehicle shall be released pursuant to this subdivision only  
13 if the registered owner or his or her agent presents a currently  
14 valid driver's license to operate the vehicle and proof of current  
15 vehicle registration, or if ordered by a court.

16 (3) If, pursuant to subparagraph (E) of paragraph (1) a motor  
17 vehicle is released prior to the conclusion of the impoundment  
18 period, neither the person charged with a violation of subdivision  
19 (a) of Section 23109 nor the registered owner of the motor vehicle  
20 is responsible for towing and storage charges nor shall the motor  
21 vehicle be sold to satisfy those charges.

22 (d) A vehicle seized and removed under subdivision (a) shall  
23 be released to the legal owner of the vehicle, or the legal owner's  
24 agent, on or before the 30th day of impoundment if all of the  
25 following conditions are met:

26 (1) The legal owner is a motor vehicle dealer, bank, credit union,  
27 acceptance corporation, or other licensed financial institution  
28 legally operating in this state, or is another person, not the  
29 registered owner, holding a security interest in the vehicle.

30 (2) The legal owner or the legal owner's agent pays all towing  
31 and storage fees related to the impoundment of the vehicle. No  
32 lien sale processing fees shall be charged to a legal owner who  
33 redeems the vehicle on or before the 15th day of impoundment.

34 (3) The legal owner or the legal owner's agent presents  
35 foreclosure documents or an affidavit of repossession for the  
36 vehicle.

37 (e) (1) The registered owner or his or her agent is responsible  
38 for all towing and storage charges related to the impoundment,  
39 and any administrative charges authorized under Section 22850.5.

(2) Notwithstanding paragraph (1), if the person convicted of engaging in an activity set forth in paragraph (2) of subdivision (a) was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense, the court shall order the convicted person to reimburse the registered owner for any towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5 incurred by the registered owner to obtain possession of the vehicle, unless the court finds that the person convicted does not have the ability to pay all or part of those charges.

(3) If the vehicle is a rental vehicle, the rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the rental car agency in connection with obtaining possession of the vehicle.

(4) The owner is not liable for any towing and storage charges related to the impoundment if acquittal or dismissal occurs.

(5) The vehicle may not be sold prior to the defendant's conviction.

(6) The impounding agency is responsible for the actual costs incurred by the towing agency as a result of the impoundment should the registered owner be absolved of liability for those charges pursuant to paragraph (3) of subdivision (c). Notwithstanding this provision, nothing shall prohibit impounding agencies from making prior payment arrangements to satisfy this requirement.

(f) The period when a vehicle is subjected to storage under this section shall be included as part of the period of impoundment ordered by the court under subdivision (h) of Section 23109.

~~SECTION 1. Section 22659.6 is added to the Vehicle Code, to read:~~

~~22659.6. (a) Notwithstanding any other provision of law, a local authority may adopt an ordinance establishing a forfeiture program that implements due process procedures for declaring a motor vehicle a public nuisance when that motor vehicle is used by a person in the commission of an act in violation of subdivision (a) of Section 23109, and there is a conviction of subdivision (a) of Section 23109 or a provision involving any lesser included~~

1 offense to which the defendant enters a plea of guilty or nolo  
2 contendere as part of a plea agreement subsequent to the defendant  
3 having been charged with a violation of subdivision (a) of Section  
4 23109.

5 (b) A procedure implemented pursuant to this section shall  
6 ensure that a vehicle is not declared a public nuisance under all of  
7 the following conditions:

8 (1) The motor vehicle is stolen, unless it is not possible to  
9 reasonably ascertain the identity of an owner of the motor vehicle.

10 (2) A rental car agency is either the legal owner or the registered  
11 owner of the vehicle and the agency pays all the towing and storage  
12 fees related to the impoundment of the vehicle.

13 (3) If the vehicle is subject to a chattel mortgage, conditional  
14 sale contract, or lease contract, and the legal owner files an affidavit  
15 with the court indicating that the chattel mortgage, conditional sale  
16 contract, or lease contract is in default, and the court orders the  
17 release of the vehicle to that legal owner.

18 (c) (1) The owner of a rental vehicle recovered pursuant to  
19 paragraph (2) of subdivision (b) may continue to rent the vehicle.  
20 However, the rental car agency shall not rent another vehicle to  
21 the driver of the vehicle that was recovered.

22 (2) The rental car agency may require the person to whom the  
23 recovered vehicle was rented to pay all the towing and storage  
24 charges related to the impoundment and those administrative  
25 charges authorized under the ordinance that were incurred by the  
26 rental car agency in connection with the recovering of the vehicle.

27 (d) (1) A vehicle described in paragraph (3) of subdivision (b)  
28 shall be delivered to the legal owner upon the payment of the  
29 accrued cost of keeping the vehicle.

30 (2) The impounding agency is not liable to the registered owner  
31 for the release of a vehicle to the legal owner or his or her agent  
32 when that release is made in accordance with paragraph (3) of  
33 subdivision (b).

34 (3) If a vehicle described in paragraph (3) of subdivision (b) is  
35 erroneously or otherwise declared a public nuisance and is sold,  
36 the proceeds of the sale of the vehicle shall be prioritized in a  
37 manner that assures that the legal owner receives an amount to  
38 satisfy the indebtedness owed to the legal owner remaining as of



- 1 ~~the date of the sale, including accrued interest or finance charges~~
- 2 ~~and delinquency charges.~~

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